



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

JUL 25 2005

VIA FACSIMILE AND FIRST CLASS MAIL

Erik H. Olson
North Tower, Suite 427
1720 Peachtree St., N.W.
Atlanta, GA 30309

RE: MUR 5623
Mike Crotts for Congress Committee, et al.

Dear Mr. Olson:

On July 18, 2005, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 434(b) and 441a-1(b)(1)(B)-(C) and 11 C.F.R. §§ 104.3(d) and 400.21(b). Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. *See* 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter G. Blumberg".

Peter G. Blumberg
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
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OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

2005 JUL 13 A 9:47
MUR: 5623

In the Matter of)
)
Mike Crotts for Congress Committee, Inc.)
and Vicki Gibbs, in her official)
capacity as treasurer)
Mike D. Crotts)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Mike Crotts for Congress Committee, Inc. and Vicki Gibbs, in her official capacity as treasurer, violated 2 U.S.C. § 441a-1(b)(1)(C) and 11 C.F.R. § 400.21(b) and that Mike D. Crotts violated 2 U.S.C. § 441a-1(b)(1)(B) and 2 U.S.C. § 441a-1(b)(1)(C).

NOW, THEREFORE, the Commission and Mike Crotts for Congress Committee, Inc. and Vicki Gibbs, in her official capacity as treasurer, and Mike D. Crotts, ("the Respondents") having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

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Background

1. Mike Crotts for Congress Committee, Inc. is a political committee within the meaning of 2 U.S.C. § 431(4). It was the authorized committee for Mike D. Crotts, a candidate for the Republicans Party's nomination for the House of Representative from the 8th Congressional District in Georgia in 2004.

2. Vicki Gibbs is the treasurer of Mike Crotts for Congress Committee, Inc.

Law

3. Within 15 days of becoming a candidate to the U.S. House of Representatives, a candidate must file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make with respect to the election that will exceed \$350,000 (FEC Form 2). 2 U.S.C. § 441a-1(b)(1)(B); 11 C.F.R. § 400.20. An 'expenditure from personal funds' includes direct contributions as well as loans made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee. 2 U.S.C. § 441a-1(b)(1)(A); 11 C.F.R. § 400.4.

4. If a candidate makes an aggregate amount of expenditures from personal funds in excess of \$350,000, the candidate or authorized committee shall file a notification of the expenditure within a day of exceeding the threshold (FEC Form 10). 2 U.S.C. § 441a-1(b)(1)(C); 11 C.F.R. § 400.21(b). For each additional expenditure of \$10,000 or more, the candidate is required to file additional notifications. 2 U.S.C. § 441a-1(b)(1)(D); 11 C.F.R. § 400.22.

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5. These notifications must be filed with the Commission and with each candidate in the same election and the national party of each such candidate. 2 U.S.C. § 441a-1(b)(1)(F); 11 C.F.R. §§ 400.21(b) and 400.22(b).¹ Although FEC Form 10 is signed by the committee treasurer, the candidate is responsible for ensuring that it is filed in a timely manner. See 11 C.F.R. § 400.25.

6. When a candidate receives a loan for use in connection with his or her campaign, the candidate receives the loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. § 104.3(d)(4). Such loans are reportable by the committee and itemizable as loans from the lender to the committee, rather than as loans from the candidate to the committee. 2 U.S.C. § 434(b)(3)(E); 11 C.F.R. § 104.3(a)(3)(vii)(B) and (a)(4)(iv).

7. A committee that obtains a loan from a bank must also file a Schedule C-1 with the first report due after a new loan or line of credit has been established. 11 C.F.R. § 104.3(d)(1). Schedule C-1 requires that the following information be disclosed: (1) the date and amount of the loan or line of credit; (2) the interest rate and repayment schedule of the loan, or each draw on the line of credit; (3) the types and value of traditional collateral or other sources of repayment securing the loan or line of credit and whether that security interest is perfected; and (4) an explanation of the basis of the credit established if the bases in (3) are not applicable. 11 C.F.R. § 104.3(d)(1)(i)-(iv). The

¹ A candidate's personal expenditures could entitle his opponents to a threefold increase in the contribution limit under 2 U.S.C. § 441a(a)(1)(A)) and a waiver of the limits on coordinated party expenditures under 2 U.S.C. § 441a(d). See 2 U.S.C. § 441a-1(a)(1); 11 C.F.R. § 400.41. Candidates are entitled to higher limits when the "opposition personal funds amount" exceeds \$350,000. The opposition personal funds amount is distinct from the threshold reporting amount of \$350,000 because it takes into account the personal funds expenditures of the other candidates and, depending on the date of calculation, may also take into account the gross receipts of both candidates. 2 U.S.C. § 441a-1(a)(2); 11 C.F.R. § 400.10. A candidate with a significant "gross receipts advantage" is less likely to qualify for the higher limits. See 2 U.S.C. § 441a-1(a)(2)(B)(ii); 11 C.F.R. § 400.10. Similarly, a candidate seeking higher limits may be limited by the amount of personal funds that he or she expended. See 11 C.F.R. § 400.10.

committee treasurer must sign the schedule on Line G and attach a copy of the loan agreement. 11
C.F.R. § 104.3(d)(2). The lending institution must sign the statement on Line I, attesting that: the
terms of the loan and other information regarding the extension of the loan are accurate, the terms
and condition of the loan are no more favorable than those extended to similarly situated borrowers,
the lending institution is aware that the loan must be made on a basis which assures repayment, and
that in making the loan it has complied with the regulations set forth at 11 C.F.R. §§ 100.7(b)(11)
and 100.8(b)(12).

Facts

8. Mike D. Crotts declared his candidacy with the Federal Election Commission on July
8, 2003 by filing an FEC Form 2, Statement of Candidacy. The Form 2 requires candidates to
submit a "declaration of intent to expend personal funds," which Mr. Crotts failed to complete
with his filing. On July 29, 2003, the Reports Analysis Division sent him a letter notifying him
of his failure to complete that section of Form 2 and requested that he send in a revised form.
Mr. Crotts submitted an amended Form 2 on September 17, 2003, declaring his intent to spend
no personal funds in excess of \$350,000 in his primary or general elections. This declaration was
over two months late. Respondents contend that at the time Mr. Crotts filed FEC Form 2 on
September 17, 2003, Mr. Crotts did not intend to spend personal funds in the campaign.

9. Mr. Crotts made a \$400,000 loan to the Committee on March 31, 2004. This loan was
funded with the proceeds of a draw that Mr. Crotts made on a personal home equity line of credit
that he held at First Nation Bank. The loan was issued at a 7% interest rate and has been repaid,
with interest.

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10. By expending over \$350,000, the Committee and candidate were obligated to file with the Commission and with Mr. Crotts' opponents an FEC Form 10, Notification of Expenditures from Personal Funds, within 24 hours of the threshold expenditure, or by April 1, 2004. The Report was not timely filed. The Reports Analysis Division ("RAD") sent a letter advising the Committee of the filing requirement on April 20, 2004. The Committee filed the required statement with the Commission 47 days late, on May 18, 2004. The Respondents contend that, at the time that FEC Form 10 was due, they were unaware of the filing requirement.

11. By using the proceeds of a bank loan, the Respondents had an obligation to file a Schedule C-1 with the Commission providing detailed information on the loan. The Respondents contend that they were unaware of the requirement to file a FEC form for a personal loan from a home equity line of credit.

12. Respondents contend that the failure to file the FEC Forms discussed in this Agreement were honest, unintentional administrative errors.

V.1. Mike D. Crotts violated 2 U.S.C. § 441a-1(b)(1)(B) by failing to timely file his declaration of intent to spend personal funds.

2. The Respondents violated 2 U.S.C. § 441a-1(b)(1)(C) and 11 C.F.R. § 400.21(b) by failing to file a notification disclosing that the candidate had expended personal funds in excess of \$350,000.

3. The Respondents violated 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(d) by failing to file a Schedule C-1.

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VI.1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of forty thousand dollars (\$40,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondents will cease and desist from future violations of 2 U.S.C. § 441a-1(b)(1)(B), 2 U.S.C. § 441a-1(b)(1)(C), and 11 C.F.R. § 400.21(b), and 2 U.S.C. § 434(b) and 11 C.F.R. § 104.3(d).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

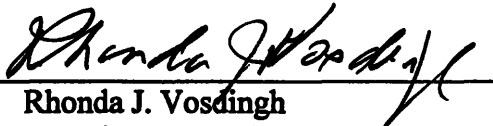
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Conciliation Agreement

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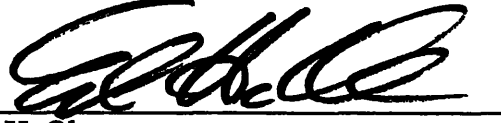
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BY: 
Rhonda J. Vosdigh
Associate General Counsel
for Enforcement

7/19/05
Date

FOR THE RESPONDENTS:


Erik H. Olson
Counsel to the Respondents

07/07/05
Date

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